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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/591,823

07/18/2007

Thomas Clos

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4639

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7590

08/17/2010

GlaxoSmithKline

GLOBAL PATENTS -US, UW2220

P. O. BOX 1539

KING OF PRUSSIA, PA 19406-0939

EXAMINER

SPISICH, MARK

ART UNIT

PAPER NUMBER

3727

NOTIFICATION DATE

DELIVERY MODE

08/17/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

US_cipkop@gsk.com

Office Action Summary	Application No. 10/591,823	Applicant(s) CLOS ET AL.	
	Examiner Mark Spisich	Art Unit 3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 8,9 and 17-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7,10-16 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 September 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/6/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of the species of Figures 1-8 in the reply filed on 2 August 2010 is acknowledged.
2. Claims 8,9 and 17-19 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 2 August 2010.
NOTE: Claim 8 and 9 clearly read on the embodiment of Figures 12-15 (with the plural links 69,610).

Priority

3. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: (1) no "19A,19B,19C" (per page 10, line 19); (2) no "12C,12D" (per page 10, line 30); and (3) no "21" (per page 11, line 30). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet"

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pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: #114 (Figure 5). Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

6. The disclosure is objected to because of the following informalities: (1) "16" (page 11, lines 23 and 26) should be -- 12 --; (2) "20" (page 12, line 12) is incorrect (this number is the head); (3) "611" (page 13, line 9) should be -- 613 --; and (4) "614" (page 13, line 19) is incorrect (this number is the void/space).

Appropriate correction is required.

Claim Rejections - 35 USC § 112

7. Claim 3,12,13 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. How can a side surface of the carrier be said to be unsupported by the carrier (claim 3, line 3)? There is no antecedent for “the bristles disposed in tufts” (claim 12, lines 1-2). Also, there is only one pad (12), so the recitation of “the elastomer pads” (claim 12, line 2) is confusing. It is suggested that claim 12 be amended something like “the bristles are disposed in tufts and are fixed into the elastomer pad”. “An elastomer bristle carrier” (claim 12, line 3) should be amended as the bristle carrier has already been defined. The “tip end” and “base end” (claim 16, line 9) lack antecedent.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-7,10,11 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Blakeman (USP 2,706,825). The patent to Blakeman discloses a toothbrush head (11) attached to a handle (10) and supporting a flexible bristle carrier (20) at opposite ends thereof (21) leaving the region of the carrier between the ends unsupported. The handle/head are preferably made of plastic (column 2, line 23).

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Making the head of plastic known today would inherently provide some degree of flexure.

10. Claims 1-7 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by DE 20109123. Refer to the search report.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blakeman (USP 2,706,825) in view of Moskovich et al (US PUB 2004/0025275). The patent to Blakeman discloses a bristle carrier (20) of rubber, plastic or essentially any elastic or flexible material (column 1, lines 64-70). The use of any known material which is known in the art and which has these properties, such as the gel discloses in Moskovich (paragraph 0026), would be obvious to one having ordinary skill in the art.

13. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Blakeman (USP 2,706,825) in view of Weihrauch (USP 6,036,277). It would be obvious to one of ordinary skill to use any known manner of securing the bristles (23) of Blakeman. The manner recited in claim 12 is known in the art (see Weihrauch as well as the search report).

14. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blakeman (USP 2,706,825) in view of WO 98/43514. The use of any known

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manner of securing the tufts (23) of Blakeman would be obvious to one having ordinary skill in the art, such as the manner shown in '514 (again, see the search report).

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited patents are further pertinent to brushes with flexible or elastic bristle carriers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Spisich whose telephone number is (571) 272-1278. The examiner can normally be reached on M-Th (5:30-3:00), Alternate Fri off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica Carter can be reached on (571) 272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mark Spisich/

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Primary Examiner, Art Unit 3727

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Art Unit 3727

/M. S./

Primary Examiner, Art Unit 3727